

SUPPORT FOR THE AMENDMENT

This Amendment amends the specification and Abstract by replacing "BET surface" with "--BET surface area--"; cancels withdrawn Claims 13-16 and 18-23; amends Claims 1 and 5-6; and adds new Claims 24-25. Support for the amendments is found in the specification and claims as originally filed. In particular, implicit support for Claim 1 is found in the specification at least at page 1, lines 10-22 and page 4, lines 1-11. Support for new Claims 24-25 is found in Claim 1. No new matter would be introduced by entry of these amendments.

Upon entry of these amendments, Claims 1-11, 17 and 24-25 will be pending in this application. Claim 1 is independent. Claims 6-11 and 17 are withdrawn from consideration pursuant to a Restriction Requirement.

REQUEST FOR RECONSIDERATION

Applicants respectfully request entry of the foregoing and reexamination and reconsideration of the application, as amended, in light of the remarks that follow.

The present invention provides a pyrogenically produced silica powder, which is highly structured compared with the prior art and which has a low BET surface area. Specification at page 1, lines 2-3; page 2, lines 15-17.

Claims 1 and 4 are rejected under 35 U.S.C. §102(b) over U.S. Patent No. 5,959,005 ("Hartmann"). Claims 2-3 are rejected under 35 U.S.C. §103(a) over Hartmann in view of U.S. Patent Application Publication No. US 2006/0154994 A1 ("Schumacher").

Hartmann discloses silanized silica produced by treating a pyrogenically produced silica with a surface-modifying reagent, such as hexamethyldisilazane. Hartmann at title; column 1, lines 28-46. Hartmann discloses that the silanized silica (i.e., *surface-modified silica*) has a BET surface area of 80-400 m²/g; a DBP number % < 200, and tamped density of 50-300 g/l. Hartmann at column 1, lines 15-25.

However, Hartmann fails to suggest the independent Claim 1 limitations of a "pyrogenically produced silica powder comprising particles each having a *homogeneous composition*, wherein the pyrogenically produced silica powder has ... a BET surface area of 30 to 90 m²/g, ... a DBP number of at least 80, expressed as g of dibutyl phthalate/100 g of silica and ... a tamped density of no more than 110 g/l". Hartmann's surface-modified silica is a *low-thickening* silica. Hartmann at column 1, lines 29, 47-48, 61. In contrast, the powder of the present invention (highly structured/low BET surface area) provides a *high thickening* action. Specification at page 2, lines 11-17.

Schumacher is not prior art to the above-identified application. Schumacher was filed on February 11, 2005, after Applicants' international filing date of December 16, 2003.

Because Hartmann and Schumacher fail to suggest all the limitations of independent Claim 1, the rejections over Hartmann and over Hartmann in view of Schumacher should be withdrawn.

Claim 5 is rejected under 35 U.S.C. §102(e) over U.S. Patent Application Publication No. US 2005/0244642 A1 ("Meyer"). However, Meyer is not prior art to the above-identified application. Meyer is the U.S. national stage of international Application No. PCT/EP03/08331, which was published in the English language and which was filed on July 29, 2003. In contrast, the above-identified application is entitled to the priority of DE 102 58 858.9, which was filed on December 17, 2002. To perfect Applicants' claim to priority under 37 C.F.R. §1.55(a)(4), attached is an English language translation of DE 102 58 858.9 and a translator's certification. Because Applicants' priority date of December 17, 2002 is before Meyer's international filing date of July 29, 2003, Meyer is not prior art to the above-identified application under 35 U.S.C. §102 (e). Thus, the rejection over Meyer should be withdrawn.

The disclosure and Claims 1-5 are objected to. To obviate the objections, the term "BET surface" is replaced with --BET surface area-- in the specification and in Claims 1 and 5.

Pursuant to M.P.E.P. § 821.04, after independent product Claim 1 is allowed, Applicants respectfully request rejoinder, examination and allowance of withdrawn process/method Claims 6-11 and 17, which include all of the limitations of product Claim 1.

In view of the foregoing amendments and remarks, Applicants respectfully submit that the application is in condition for allowance. Applicants respectfully request favorable consideration and prompt allowance of the application.

Should the Examiner believe that anything further is necessary in order to place the application in even better condition for allowance, the Examiner is invited to contact Applicants' undersigned attorney at the telephone number listed below.

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Respectfully submitted,

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Attached: English language translation of DE 102 58 858.9 priority document
Translator's certification